| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/706,425 | 11/12/2003 | Joseph J. Kubler | 14364US11 | 8617 |

7590    08/31/2010

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| EXAMINER |
|---|
| ZHU, BO HUI ALVIN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2465 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/31/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| **Advisory Action**<br>**Before the Filing of an Appeal Brief** | 10/706,425 | KUBLER ET AL. |
| | Examiner | Art Unit |
| | BO HUI A. ZHU | 2465 |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

THE REPLY FILED 14 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 22-70.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jayanti K. Patel/
Supervisory Patent Examiner, Art Unit 2465

Continuation of 3. NOTE: The proposed amendments raise new issue i.e. new claims 71-103, which would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because:

With regard to claim 22, applicants argue that the combination of Kotani and Morris is contrary to the operation of Morris for its intended purpose and therefore, there is no motivation for making the suggested combination (Remarks, page 19-20). Examiner respectfully disagrees. The examiner recognizes that Morris and Kotani are analogous art, and that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art

With regard to claims 36 and 70, applicants argue that the Office has failed to show any basis for the conclusory statement that a bar code scanner does character recognition (Remarks, page 20-23). Examiner respectfully disagrees. Meyerson teaches a character recognition process by discussing the use of a bar code scanner. Meyerson teaches the bar code scanner comprises a light source and a photo receptor (26 and 28 in Fig. 1). A bar code a symbol that contains information thus it can be viewed as a character. The process of using a light source and a photo receptor to capture the information of a bar code can be viewed as a character recognition process.

With regard to claims 41 and 42, applicants argue the Office fails to provide any identification of any text or figures from Meyerson as support for the rejection (Remarks, page 23). Examiner respectfully disagrees. Claims 41 and 42 are dependent claims of claim 37. In claim 37, the Office provides text and figure from Myyerson as support for the rejection. Because claims 41 and 42 are dependent from claim 37, the same rejection from claim 37 apples to claim 41 and 42. Applicants further argue that the prior arts do not teaches a process that identifies the type of information ina captured image (Remarks, page 24). Examiner respectfully disagrees. The limtation "identifying the type of information in a captured image" was not recited in claim 41 or 42. Claim 41 and 42, merely recites "identifying the type of informatin in the image", not the captured image.